**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX REFERENCE NO.658 OF 1998**

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Automotive and Allied Ind.Pvt.Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

**CORAM : V.C. DAGA AND**
**J.P.DEVADHAR, JJ.**

**DATED : 4TH APRIL, 2005.**

**P.C. :-**

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the disallowances out of expenditure incurred on salary and perquisites to employee-directors should be made under the provisions of sec.40(c) of the I.T. Act, 1961 and not under section 40A(5) of the Act?"

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

**(V.C. DAGA, J.)**

**(J.P.DEVADHAR, J.)**